IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(Crl.).No. 144 OF 2007(S)

PETITIONER:

FIYONA CHARLY, AGED 25 YEARS,
D/O. CHARLY, USHA DALE, KADAVOOR, PERINAD P.O.,
KOLLAM.

BY ADV. SRI.V.V.RAJA
SRI.M.T.SURESHKUMAR

RESPONDENTS:
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1. THE SUPERINTENDENT OF POLICE, KOLLAM.

2. THE ASST.SUPERINTENDENT OF POLICE(SHO),
ANCHALLUMOODU POLICE STATION, KOLLAM.

3. THE SUB INSPECTOR OF POLICE,
ANCHALLUMOODU POLICE STATION, KOLLAM.

4. BIJU YESUDAS, AGED 21,
S/O. YESUDAS, PADIKKAL KIZHAKKATHIL HOUSE,
PERINAD, KUREEPUZHA P.O., KOLLAM.

BY ADV. SRI.P.V.GEORGE(PUTHIYIDAM)
SRI.P.V.GEORGE(PUTHIYIDAM)
GOVT. PLEADER SRI. K. RAVINDRA BABU

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(CRL) 144/2007

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE FIR IN CRIME 194/07 OF THE ANCHALUMMOOD POLICE.

EXT.P2 TRUE COPY OF PETITION DATED 29.5.2007 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS:

EXT.R4(a) TRUE PHOTOCOPY OF BIRTH CERTIFICATE OF AEDRIN JOHNPAUL ISSUED FROM KOLLAM CORPORATION OFFICE DATED 1.6.2007.

EXT.R4(b) TRUE COPY OF THE LETTER WRITTEN AND SIGNED BY PETITIONER.

EXT.R4(c) TRUE COPY OF THE ORDER DATED 30.5.2007 PASSED BY THE HON'BLE HIGH COURT IN B.A. NO. 2887/07.

// TRUE COPY //

P.S. TO JUDGE.

KNC/-

P.R. RAMAN & K. HEMA, JJ.
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W.P.(CRL) NO. 144 OF 2007
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DATED THIS, THE 26TH DAY OF JUNE, 2007.

J U D G M E N T

Raman, J.

Pursuant to our order dated 20th June, 2007, Leela Yesudas, the mother of the 4th respondent produced the child. Both the petitioner and her father were also present. We extensively interacted with the parties.

2. The allegation is that the child is under the illegal custody of the 4th respondent. It is the case of the petitioner that on 29.4.2007 her mother-in-law and the brother of her husband - the 4th respondent herein, asked her to leave the matrimonial home and to reside with her parents. According to her, they themselves took her along with the child to her residence and left both of them there. Thereafter, on 2.5.2007, the 4th respondent forcibly took the child from her custody and thereafter the whereabouts of the child is not known to her. Hence a complaint was made to the police which was registered as Crime No. 194/2007. In such circumstances, petitioner prayed that a writ of habeas corpus be issued directing the 4th respondent to produce her minor child Edrin and to pass appropriate orders. Since the minor child was already produced by the mother of the 4th respondent, the

relief as sought for under Payer Nos. A and B are satisfied. What is the further order to be passed only remains to be decided.

3. We find that the petitioner's husband is at present at Germany and petitioner herself as filed a petition for divorce which is pending before the Family Court, Kollam. Crime No. 194/2007 is already registered by the police based on the complaint made by the petitioner. The allegation that the petitioner's minor child was taken away by the 4th respondent forcibly on 2.5.2007 is not supported by any materials produced on record.

4. However, the 4th respondent is only the brother of the petitioner's husband. It has to be noticed in this connection that the petitioner herself was residing with her mother-in-law and the 4th respondent along with the child in her matrimonial home. Therefore, in the interest of all concerned, leaving open the right of the parties to proceed with the respective cases and to claim any further relief from the Family Court and until any better arrangement is found feasible by the Family Court, we allow Leela Yesudas, the mother of the 4th respondent, who is the grandmother of the child, to take back the child.

4. However, this will not prevent the parties for any amicable settlement of the disputes between them including custody of the child.

The writ petition is closed.

P.R. RAMAN,
(JUDGE)

K. HEMA,
(JUDGE)

knc/-